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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 ROGER SINCLAIR WRIGHT,

9 Plaintiff,

10 v.

11 CHRISTOPHER GREGORIO, et al.,

12 Defendants.
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CASE NO. C18-1006 RSM

ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS AND DENYING
PLAINTIFF'S MOTION FOR ADDITIONAL
TIME

15 This matter is before the Court on Defendant City of Seattle's Motion to Dismiss Under
16 Rule 12(b)(6). Dkt. #6. Plaintiff has not substantively responded to Defendant's Motion, instead
17 filing a Motion for Additional Time. Dkt. #15. Upon review of the record and for the following
18 reasons, the Court determines that Plaintiff should not be granted additional time to respond, that
19 Defendant's Motion should be granted, and that this action should be dismissed.
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21 Plaintiff initiated this action against eleven named City of Seattle Police Officers, the City
22 of Seattle, and DOES 1-10 who are alleged to be unidentified law enforcement officers and staff.
23 Dkt. #1 at ¶¶ 2–16.¹ Plaintiff brings four claims for violation of his rights under 42 U.S.C.
24 § 1983. *Id.* at ¶¶ 51–82 (excessive force, unreasonable search and seizure of person, illegal
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¹ Defendant City of Seattle has appeared but there is otherwise no indication in the record that
any of the other Defendants have been served.

1 search/seizure of property, and denial of equal protection). These claims arise from interactions
2 between Plaintiff and various officers of the Seattle Police Department between October 9, 2004,
3 and November 29, 2006. *Id.* at ¶¶ 19–41. The last contact resulted in two criminal convictions
4 that were ultimately overturned by the Washington State Supreme Court on April 5, 2012. *Id.* at
5 ¶ 43. Plaintiff does not allege any specific events after that date other than the 2014 filing of a
6 civil action in this Court that was subsequently dismissed without prejudice. *Id.* at ¶ 46.

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8 Defendant seeks dismissal on the basis that Plaintiff’s § 1983 claims are clearly precluded
9 by the applicable statute of limitations. Dkt. #6. Because § 1983 does not contain a statute of
10 limitations, it borrows Washington’s statute of limitations for personal injuries which is three
11 years. *Wyant v. City of Lynnwood*, 621 F. Supp. 2d 1108, 1110 (W.D. Wash. 2008) (citing WASH.
12 REV. CODE § 4.16.080(2)). Here the factual events giving rise to Plaintiff’s claims happened no
13 later than November 2006 and Plaintiff learned of any injury caused by his reversed convictions
14 no later than April 2012. Accordingly, Plaintiff’s claims are clearly precluded by the statute of
15 limitations.

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17 Plaintiff does not substantively respond to Defendant’s Motion and therefore concedes
18 that Defendant’s Motion has merit. LCR 7(b)(2) (“Except for motions for summary judgment,
19 if a party fails to file papers in opposition to a motion, such failure may be considered by the
20 court as an admission that the motion has merit.”). Plaintiff did, however, file a Motion for
21 Additional Time to respond to Defendant’s Motion. Dkt. #15. But the Court does not find good
22 cause to further delay resolution of this matter and denies Plaintiff’s request.

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24 Defendant’s Motion to Dismiss was originally noted for the Court’s consideration on
25 August 24, 2018. *Id.* Defendant twice renoted its Motion for consideration on September 28,
26 2018 (Dkt. #8) and then November 30, 2018 (Dkt. #11). As that date approached, Plaintiff filed

1 a Motion for Additional Time indicating that he needed additional time “due to [Defendant] and
2 its records department delaying multiple request for records.” Dkt. #12. Defendant did not
3 oppose Plaintiff’s request for additional time but indicated that it would object to further
4 extensions. Dkt. #13 at 2. Finding good cause for the additional time, the Court granted
5 Plaintiff’s Motion and renoted the matter for February 1, 2019. Dkt. #14.

6 With the February 1, 2019 noting date approaching, Plaintiff again filed a Motion for
7 Additional Time indicating that Plaintiff is “asking for additional time due to the [Defendant]
8 and its records department delaying multiple request for records. These documents are necessary
9 to my case and argument for the Defendants [sic] motion to dismiss.” Dkt. #15. Plaintiff asks
10 the Court to note Defendant’s Motion for June 7, 2019. *Id.* Defendant opposes Plaintiff’s Motion
11 and asks that the Court rule on, and grant, its Motion to Dismiss. Dkt. #16.

12 The Court may extend the time for consideration and briefing of Defendant’s Motion
13 upon a showing of good cause. Fed. R. Civ. P. 6(b). The Court does not find good cause for
14 several reasons. First, Plaintiff has already been afforded three extensions and had approximately
15 six months to substantively respond to Defendant’s Motion. Second, Plaintiff has never provided
16 any indication of the factual material he expects to discover if the Court grants additional time.
17 *See California Union Ins. Co. v. Am. Diversified Sav. Bank*, 914 F.2d 1271, 1278 (9th Cir. 1990)
18 (no abuse of discretion in denying further discovery if “movant has failed diligently to pursue
19 discovery” or “fails to show how the information sought would preclude” the adverse ruling).
20 Here, the Court struggles to determine what factual material Plaintiff hopes to obtain to overcome
21 the clear application of the statute of limitations to his claims. Third, Plaintiff provides the exact
22 same justification for his first and second requests for additional time with absolutely no
23 indication that any progress has been made in the intervening months. There is simply no
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1 indication that a further extension of time will enable Plaintiff to better respond to Defendant's
2 Motion.

3 Accordingly, having considered the relevant briefing and the record, the Court finds and
4 ORDERS:

- 5 1. Defendant City of Seattle's Motion to Dismiss Under Rule 12(b)(6) (Dkt. #6) is
6 GRANTED.
- 7 2. Plaintiff's Motion for Additional Time (Dkt. #15) is DENIED.
- 8 3. Plaintiff's claims are DISMISSED with prejudice.
- 9 4. The Clerk shall send a copy of this Order to Plaintiff at his last known address.
- 10 5. This matter is CLOSED.

11 Dated this 28th day of February 2019.

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15 RICARDO S. MARTINEZ
16 CHIEF UNITED STATES DISTRICT JUDGE
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